

THE CITY OF CLAYTON

Board of Aldermen
City Hall – 10 N. Bemiston Avenue
June 11, 2013
7:00 p.m.

Minutes

Mayor Sanger called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Michelle Harris, Cynthia Garnholz, Mark Winings, Joanne Boulton, and Alex Berger III.

Mayor Sanger
City Manager Owens
City Attorney O'Keefe

Absent: Andrea Maddox-Dallas

Mayor Sanger asked for any questions or comments relating to the May 28, 2013 minutes, which were previously provided to the Board.

Alderman Garnholz moved to approve the May 28, 2013 minutes. Alderman Harris seconded the motion.

City Clerk June Waters confirmed she received edits from Alderman Boulton and Mayor Sanger and the minutes have been updated with the revisions.

The motion to approve the minutes passed unanimously on a voice vote.

PUBLIC REQUESTS AND PETITIONS

None

PUBLIC HEARING & RESOLUTION TO CONSIDER APPROVING A CONDITIONAL USE PERMIT FOR A SECOND UNIT - 29 HILLVALE DRIVE

Mayor Sanger opened the public hearing with regard to a request for a Conditional Use Permit for 29 Hillvale and request proof of publication.

City Manager Owens reported that this is a public hearing and subsequent resolution to consider granting a Conditional Use Permit to Michael and Dana Alter, owners, to allow the second floor of a new detached garage to function as a second unit.

The subject property is located in the R-2 Zoning District. The second unit is subject to the issuance of a conditional use permit as contained in Article II, Section 405.330 of the Zoning Regulations, which reads as follows:

Section 405.330 Second Units (Carriage Houses / Granny Units). A second unit is a type of accessory structure, either attached or detached which provides complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating,

cooking, and sanitation, and is located on the same site as the principal residence. Second units are permitted subject to approval of a Conditional Use Permit, and the following criteria:

- Second Units are only permitted in the R-1 and R-2 Large Lot and Single Family Residential Dwelling Districts, respectively.
- If a second unit is to be occupied permanently, then the occupants must be related to the residents of the principle residence. The second unit occupants must be related by blood, marriage or adoption, or be employed by the principle residence and do work on the grounds.
- A second unit may not be rented, sold, transferred, or assigned separately from the principle residence. The owner shall record a deed restriction to this effect as part of the Conditional Use Permit process required for such second unit.
 - Maximum living area for a second (2nd) unit in the "R-2" Single-Family Dwelling District is one thousand (1,000) square feet.
- An accessory structure containing a second unit may not exceed twenty (20) feet in height or occupy more than thirty (30%) percent of the area of a required rear yard, but no accessory structure shall be closer than ten (10) feet to the principle building nor closer than five (5) feet from any side or rear property line.
- An accessory building that is not part of the principle structure shall be located not less than sixty (60) feet from the front property line.
- Required parking facilities (i.e. garage) may not be demolished or converted in order to construct a second unit, unless the required parking space(s) are replaced concomitantly on the site.
- Each second unit shall be provided with one (1) additional parking space in addition to the parking required for the principle residence.
- The second unit shall conform to the color, material, architectural style, and detailing of the principle residence and shall meet all other applicable building code requirements, zoning regulations, developments standards, and guidelines.
- A landscape plan, which provides for adequate screening of the second unit from neighboring properties, as determined by the Landscape Architect on contract with the City of Clayton.
- Any waiver from the above stated criteria will require approval of a variance from the Board of Adjustment.

The second floor of the garage will feature the elements that define a second unit which include a kitchen, bathroom, sleeping and living space. Permanent use of second units is limited to individuals related to the owners, or employees of the owners of the principal residence who do work on the grounds of the property. The second unit may not be rented and the owner shall record a deed restriction to this effect as part of the permit process required for a second unit.

The size of the proposed living area of the structure is 500 square feet, below the maximum allowed in the R-2 Zoning District of 1,000 square feet. The total size of the structure is 1,321 square feet. The second unit will be located at the southwest corner of the site, approximately ninety feet from the street, and will be accessed from a new driveway that will be relocated approximately fifteen feet to the south of the existing driveway. The second unit will be screened from the neighboring properties to the south and west by a row of Juniper evergreen shrubs.

The Plan Commission considered the request for Conditional Use Permit at their May 20, 2013, meeting and voted unanimously to recommend approval subject to the stipulations contained in Article II, Section 405.330 (outlined above), that proof of the required deed restriction be submitted to the City prior to building permit issuance and that the existing landscaping and privacy fencing which provides screening of this second unit from adjacent residences be properly maintained. The Plan Commission

also considered the site plan and the Architectural Review Board considered the design and materials associated with the new garage and addition at their May 20, 2013, meeting and voted unanimously to approve.

Staff recommends approval of the resolution granting a Conditional Use Permit for a second unit.

In response to Alderman Boulton's question, Mr. Kelly Stockie, Jeff Day Architects, representing the owners, addressed the Board stating that the homeowners will be using the second unit as a home office space and not used for business purposes.

Mayor Sanger closed the public hearing.

Alderman Harris moved to approve Resolution No. 13-15, to consider a request for a Conditional Use Permit for 29 Hillvale. Alderman Garnholz seconded.

The motion passed unanimously on a voice vote.

PUBLIC HEARING AND ORDINANCE TO REVISE CHAPTER 410 (OVERLAY & URBAN DESIGN ZONING DISTRICTS) BY THE ADDITION OF ONE NEW ARTICLE, ESTABLISHING THE MARYLAND GATEWAY OVERLAY DISTRICT AND AN ORDINANCE TO AMEND SECTION 410.020

City Manager Owens reported that this is an ordinance revising Title IV (Land Use), Chapter 410 (Overlay and Urban Design Zoning Districts) of the Code of Ordinances of the City of Clayton by the addition of a new article entitled "Maryland Gateway Overlay District" that, if adopted, will establish a new overlay district. This has been the source of a number of meetings, discussions, and considerations and the current ordinance is a recommendation to resume the public hearing, consider approval of adoption of the modified ordinance which includes modification of the overlay district area as described in the ordinance. The primary changes that are reflected include a requirement for a curb-to-curb retail and the composition of the commercial area should be primarily retail.

City Clerk June Waters clarified that the public hearing was opened and closed at the May 28, 2013 meeting. Mayor Sanger confirmed that this is not a public hearing.

Alderman Harris introduced Bill No. 6391, an ordinance to revise Chapter 410, Overlay and Urban Design Zoning Districts, by the addition of one new article, establishing the Maryland Gateway Overlay District to be read for the first time by title only. Alderman Garnholz seconded.

Alderman Winings' asked a question regarding Section 410.805, (5) *In no case shall retail uses constitute less than 50 percent of the total floor area of a structure or the gross floor area of all structures associated with a development project* – should the calculation be based on the ground floor only? He said that if there is a 2-3 story project they would still have a 50% total ground floor area as a retail component, which he didn't feel that was the intention.

Susan Istenes stated that upon reviewing her notes, she agrees with his assessment on this point which she has made a revision to the ordinance to make sure it is clear. She clarified that the 50/50 split of land uses is to be applicable to the ground floor only and not to the entire building. She proposed the following revision: *Permissible ground floor uses identified in Section 410.805, (1) shall constitute no less than 50 percent of the total floor area of a structure or the gross ground floor area of all structures associated with a development project.* She explained that if it's an individual structure or a development on a lot with multiple structures each of the ground floors would have no less than 50 percent retail or the personal service uses, all identified in Section 410.805, (1).

Alderman Winings' inquired as to what is included for purposes of retail in making the 50/50 calculation? If everything in Section 410.805, (1) would count as retail therefore a financial institution could be 100% which is not the intent? He suggested that the revised language could be modified to use part of the language of (1) as follows: "...*beauty salons and similar personal care services, dry cleaning facilities, restaurants*" instead of all of the uses as it is listed.

With regard to Section 410.790, B(1), "...*small retail and service activities*;" Alderman Berger stated that Section 410.805, (1) eliminates service activities from the list which seems to be inconsistent. Susan Istenes stated that this could be clarified to say personal services.

Alderman Winings wanted to clarify that one of the changes made since they last met was to delete the references to real estate offices, travel agencies or governmental offices. He asked if clause (1) which lists what is permitted is enough. Ms. Istenes reminded the Board that this limitation is for ground floor uses only and those uses can still be present in the zoning district just not allowed on the ground floor in this overlay.

Alderman Winings stated that he felt that a real estate office would be permitted on the ground floor, but still subject to the requirement that at least 50 percent is retail beyond that.

Alderman Harris stated that there has been so much mentioned in different parts of the ordinance it has become cumbersome, but Alderman Winings has made some good points. She said that all ground floor uses could include a real estate office as long it is 50/50 office retail.

In response to Alderman Garnholz's question, Ms. Istenes confirmed that offices would be included in the definition of small-scale retail and stated that she would make that distinction clearer.

In response to Alderman Berger's question regarding Section 410.830 - Off-Street Parking and Loading Requirements, "*Every principal commercial structure must provide off-street parking in accordance with Chapter 405*", Ms. Istenes stated that there are two issues, 1) there is a vacant parcel that is potentially going to be developed and the developer will need to plan accordingly, because they will be starting with a blank slate. They will have to meet the parking requirements per the uses that are proposed and the square footage; and 2) there is existing buildings and not enough parking and she doesn't think that it will change unless all of the parcels are redeveloped. The ratio parking requirements for a retail or service business is one space per every 300 square feet.

Mayor Sanger stated that he would like to make sure that everyone has all of their questions answered. From what he understands tonight is that since the Board does not have the (revised) text in front of them as the ordinance will read and suggests tabling the ordinance until the next meeting. He said that the questions were great and Ms. Istenes gave clarity on those questions, but he would really like to make sure that all of the questions are answered before the Board votes.

Alderman Harris requested that once the revisions are drafted if they could be provided to the Board in order to make sure all of the questions have been addressed.

Alderman Winings commented that the ordinance does not change the parking requirements. He said that a few residents have raised concerns regarding the parking requirements with both he and Alderman Berger.

In response to Mayor Sanger's question, City Manager Owens said that it be appropriate to delay the ordinance and draft the revisions for the Board's review and bring it back along with the resolution to adopt the administrative guidelines related to drive throughs at the next meeting.

Mr. Thomas Jones asked for a continuation of the public hearing is allowed, because he and others were in the audience to speak with regard to the proposed ordinance.

Mayor Sanger explained that the public hearing had been closed (on record) at the May 28, 2013 meeting and therefore this was not a public hearing, however he will allow public comment from the audience.

Alderman Harris moved to table Bill No. 6391 until the next Board meeting scheduled for June 25th. Alderman Garnholz seconded.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6392, an ordinance to amend Section 410.020 "Districts" to be read for the first time by title only. Alderman Garnholz seconded.

In response to Mayor Sanger's question, Susan Istenes confirmed that there were no changes in Bill No. 6392 and that the ordinance will add the district to the list of overlay zoning districts in the City's Code.

Alderman Harris moved to table Bill No. 6392 until the next Board meeting scheduled for June 25th. Alderman Garnholz seconded.

The motion passed unanimously on a voice vote.

Mr. Thomas Jones, 128 Crandon, addressed the Board with his concerns regarding parking. He said that what he has heard tonight is that the ordinance will not change the parking requirements. He said that a month ago the Plan Commission voted on a proposal to amend Chapter 405, parking requirements for theaters and retail under 3,000 square feet and that there will be no requirement for off-street parking. He is concerned that this is inconsistent with what the proposed ordinance is for tonight.

City Manager Owens explained that the amendment proposed at last month's Plan Commission meeting is not related to the ordinance that is before the Board tonight. He stated that the proposed amendment discussed at the Plan Commission does not include the Maryland Gateway District.

City Manager Owens pointed out that the Plan Commission took into consideration Mr. Jones' concerns and that they all understood that the neighborhood could be impacted much differently than what the original intent had been. He said that in locations where there are parking garages in abundance during the evening hours small retail could benefit from sharing that parking. The intent was to try to alleviate some of the parking burden in the downtown districts, but when a district that is closer to a neighborhood was included it would not have the same intent. Therefore the decision was to exclude the Maryland Gateway District.

Mayor Sanger stated that tonight the Board will not be voting tonight on the proposed ordinances. He stated that the Board has been and will continue to work diligently on behalf of all the residents on Crandon and Lancaster to do the best that they can to make sure that those streets remain safe and parking is restricted as much as possible. He thanked Mr. Jones for his comments.

Mr. Jones expressed his concerns regarding the requirements for accessory buildings and feels that they are very "liberal" requirements.

Ms. Istenes stated that the current regulations for the C-1 District, *"One or more accessory buildings may be located in the rear yard, however the combined footprint may not occupy more than 30% of the required rear yard and no accessory building shall be closer than ten feet to the principal building nor closer than five feet to any rear property line. Additionally, accessory buildings may not exceed 20 feet in height."*

Alderman Boulton noted that the 15 foot "buffer" is a Design Criteria for a drive-through facility which is no change from the current zoning.

Mr. Jones stated that he understands the requirement for drive-through facilities, but doesn't feel that five feet of space is enough room to place a vegetation barrier between the residential and commercial. He also pointed out the ancillary building may be attached to the primary building where the other ordinance would require the separation by at least ten feet.

Mayor Sanger stated that they have heard Mr. Jones' comments and will take a look at it before the final ordinance is brought before the Board.

Mr. Stephen L. Kling, Jr., Attorney, Jenkins and Kling, P.C., 150 N. Meramec Avenue, addressed the Board stating that he is representing owners of 8321 Maryland Avenue property which is located within the proposed overlay district. His clients have a couple of concerns they would like to bring to the Board's attention. He clarified that this is the vacant property. He said that the proposed ordinance as currently worded would limit all financial institutions to a single drive-through lane which would allow either an ATM or a teller-manned lane, but not both. He said that the issue would effectively preclude any modern bank from wanting to develop the property.

Mayor Sanger commented that there are some examples of banking institutions here in Clayton that provide single-lane, drive-up and ATM machines that work very well with regard to customer traffic. There is nothing to preclude a developer from putting an ATM in the front lobby or interior door off of the sidewalk for pedestrians to use.

Mr. Kling commented that most people today would prefer to drive-in, do their business and get out and it's more of a convenience or attractiveness factor. He said that if you want quality banks in this area, they will look at all these options.

Mr. Kling stated that there are concerns about the proposed design guidelines; they are intended to be flexible and not have the force of law such as an ordinance. He said that in Section 410.835, B(3) the Overlay District capsulizes this by stating the Plan Commission shall have the discretion to consider alternatives and modifications to strict application. He said that the Section goes on to say that such discretion is available to be exercised where there are practical difficulties or hardships or modifications and prove the usefulness of district as a whole or modifications serve the best interest of the City. He said this is typical of guidelines to allow the Plan Commission the flexibility to address special circumstances, unforeseen situations, hardships, and unique projects that may better the City. He said that the guidelines in Section 3.1 state that design criteria are mandatory and restrict land use and not only are mandatory provisions inconsistent with the use of guidelines, but they preclude the ability of the Plan Commission to exercise its discretion and allow the modifications that are sometimes needed to better the proposal and the project for the City. His clients would like some relief with respect to those two issues, particularly the second. He thinks the City is putting itself in a position where it loses the flexibility that is normally intended in guidelines. He pointed out that the City already has a requirement for noise, traffic studies and it's a conditional use, a lot a safeguards and he suggests to let the staff and the professionals assist the City in making the decisions rather than boxes themselves in.

City Attorney O'Keefe respectfully commented to Mr. Kling that he does not read the ordinance the same way. He stated that Section 410.835, (B) establishes guidelines (a-e), the text that the ordinance Mr. Kling quoted says that Subsection (3) states that *"In applying these guidelines the Plan Commission shall have discretion to consider..."* City Attorney O'Keefe stated that this is not a reference to flexibility with respect to the guidelines proposed which are to be adopted by the resolution (discussed earlier this evening) for a separate document attached to the ordinance. He respectfully disagreed with Mr. Kling that there is an inconsistency between the mandatory characters of the design guidelines versus the flexibility discussed in the text of the ordinance. He clarified that the flexibility refers to the guidelines (a-e) immediately preceding it in that section.

Mr. Kling referred to Section 410.835, B(1)e *"Drive through facilities for financial institutions shall be reviewed for compliance with the Design Guidelines and Requirements for Drive Through Facilities"* He stated that the City has incorporated this back into the ordinance and stated that the concept of a guideline is to allow flexibility.

Mr. Brendon Soval, Husch Blackwell, representing 5th Third Bank addressed the Board stating his concerns regarding the mandatory requirements and criteria set forth in the ordinance. He stated that although the overlay district permits drive-through lanes subject to the conditional use permit approval process some of the revised language presented overly restricts financial institutions. He said that the proposed language mandates that drive-through facilities will be limited to a single drive-through lane which the language does not leave any room for evaluation of the proposed site plan and it also permanently excludes any innovative design or alternative concepts that might not require a drive-through lane to accommodate both an ATM and a full-service teller. He said that the language seems to be inconsistent with the current version of Design Criteria No. 1 limits drive-through lanes to one, but also says on sites larger than two acres there can be more lanes allowed. He proposes in Section 410.805, (3) to eliminate the requirement the mandatory limit to one drive-through lane. He said that he agrees with Mr. Kling that the Design Criteria are too rigid and the mandatory requirements shouldn't be imposed.

Mr. Soval expressed concern with regard to Section 410.805, (5), the minimum 50 percent retail requirement. The revised ordinance mandates that the retail use constitutes no less than 50 percent of the total floor area within the development. He said that this doesn't make sense and is incompatible with construction of financial institutions. He said that banks are not developers and buildings constructed as banks being used for something other than banking purposes could have negative effects and be precluded through federal regulatory guidelines for banks, but not other retail establishments might be subject to. He proposes that the Board revise Section 410.805 (5) with respect to his concerns.

Mr. Soval expressed concerns with the use of criteria that are rigid and inflexible versus the guidelines. He proposed in Section 410.805 to add a provision that indicates the City would have the discretion to evaluate use restrictions. As well as in Sections 410.825 (3)a and 410.840 (1) that deals with the new corner-to-corner façade requirement which now require that buildings occupy the full frontage from property line to property line which he feels is inconsistent with Section 410.840 (7). This section requires unlimited green space and some type of pedestrian gathering. He is proposing that the City revise these sections to read *"buildings shall be encouraged to occupy the property frontage from property line to property line...to promote continuous building façade unless green space or pedestrian gathering spaces are also included with any site plan."*

Mr. Soval said that they had a traffic study done for Fifth 3rd Bank's intended use and they did not have building frontage going from corner-to-corner at the particular site. The study showed that there would be no adverse impact for parking or traffic as the current plan was proposed. He said that the revised ordinance seems more difficult to deal with unless they take slight, but substantive revisions and allow

the City to exercise discretion in many more ways than it's currently being permitted. He said that they feel that the ordinance should enable a city to approach each individual site on a case-by-case basis once a site plan has been submitted and to have a discussion with the potential applicants with the benefits and drawbacks on certain design elements that can be worked through. he said that imposing such rigid requirements creates a concern that prevents applications from being submitted because the ordinance is too inflexible and ends the discussion before it begins.

Mayor Sanger noted that all of the points brought forward have been deeply debated, discussed, looked at for unintended consequences and that is how they ended up with what is before them. The City is working within the framework of the Downtown Master Plan, they are working within the framework of not creating more problems for the residences and they have come up with what they feel is the right prospect. He said that they welcome Fifth 3rd Bank into Clayton as a good corporate citizen.

Mr. Carl Lang, 8400 University Drive, addressed the Board asking if the ordinance would exclude gas stations and expressed his concerns regarding parking with regard to Section 410.830 which allows residential. He feels that it should be only in a principle structure since it will be mixed-use.

Mayor Sanger confirmed that gas stations are not a permitted use. He clarified that this pertains only to the Maryland Gateway District where the lot in question is located and the number of parking spaces available will dictate how much density will go into the building(s). He said that more than likely it will end up being a single-story structure because more than one structure would require the number of spaces that would not be available on the lot.

Mr. Lang wanted the City to be aware of the parking concerns of the residents.

Ms. Roseline Miles, 110 Lancaster, addressed the Board stating that she does not have any complaints with the business directly in front of her, but she is requesting that the no parking sign is lifted from in front of her house because of the limited parking. She is concerned that it will get worse once more development is constructed on Maryland Avenue. She mentioned also that a portion of the street in front of her house was missed when the City crews were sealing their street.

Mr. Jared Novelly, #5 Brighton Way, addressed the Board stating that he has no problem with his rear neighbor, Bank of America and there is no problem with parking for the bank. He expressed his concern with regard to the retail issue in the proposed overlay.

ORDINANCE APPROVING A MAINTENANCE AGREEMENT AND DEDICATION AGREEMENT WITH THE METROPOLITAN SEWER DISTRICT (MSD) FOR STORMWATER MANAGEMENT FACILITIES RELATED TO THE ENTERPRISE HOLDINGS PAVILION IN SHAW PARK

City Manager Owens reported that the Metropolitan Sewer District (MSD) requires the execution of a maintenance agreement for construction projects that include the installation of stormwater management facilities as a result of any increase in impervious surface area related to the project. The Enterprise Holdings Pavilion in Shaw Park will include a rain garden that will handle runoff from the site thus helping to improve water quality and meeting the requirement for MSD.

Staff recommendation is to approve an ordinance authorizing the execution of the maintenance agreement with MSD for the storm water management facilities related to Enterprise Holdings Pavilion in Shaw Park.

Alderman Harris introduced Bill No. 6395, an ordinance to approve a maintenance agreement with Metropolitan Sewer District for storm water management facilities for the Enterprise

Holdings Pavilion at Shaw Park to be read for the first time by title only. Alderman Garnholz seconded.

City Attorney O'Keefe reads Bill No. 6395, an ordinance approving dedication and maintenance agreements with the Metropolitan Sewer District for stormwater management facilities related to the Enterprise Holdings Pavilion in Shaw Park for the first time by title only.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6395, an ordinance to approve a maintenance agreement with Metropolitan Sewer District for stormwater management facilities for the Enterprise Holdings Pavilion at Shaw Park to be read for the second time by title only. Alderman Garnholz seconded.

City Attorney O'Keefe reads Bill No. 6395 for the second time; Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Sanger – Aye. The Bill was adopted and became Ordinance No. 6271 of the City of Clayton.

ORDINANCE APPROVING THE EXECUTION OF DOCUMENTS RELATED TO LEASES FOR SOLAR PANELS AT THE SCHOOL DISTRICT OF CLAYTON ADMINISTRATION BUILDING AND THE CENTER OF CLAYTON

City Manager Owens reported that the School District of Clayton has received approval from the Architectural Review Board for a 20 year leasing program for the installation of solar photovoltaic arrays on the roofs of school facilities throughout the District. Microgrid Solar will be installing seven solar photovoltaic arrays at six locations within the District, including one array at the District's Administration Building and one at The Center of Clayton. The Clayton Recreation, Sports and Wellness Commission (CRSWC) approved the inclusion of the Center in this program at their April 26, 2013 meeting.

As these two installations impact property that is either owned by the city or leased to the CRSWC, it will be necessary for the City of Clayton to sign off on documents related to their installation including such items as the leases and easements associated with access to the arrays.

Recommendation is to approve an ordinance authorizing the City Manager to execute leases and easements related to the installation of the solar arrays at the School District Administration Building and The Center of Clayton.

Alderman Harris introduced Bill No. 6396, an ordinance to authorize execution of documents related to leases for solar panels at the Clayton School District Administration Building and the Center of Clayton to be read for the first time by title only. Alderman Garnholz seconded.

In response to Alderman Berger's question with regard to replacement and maintenance accountability, City Manager Owens explained that it is a 20 year lease and the City will be held harmless.

In response to Alderman Berger's question with regard to the repair of the roof leak on the building, Patty DeForrest explained that the intent is to repair the leak before the solar panels are installed and those costs are available in the budget.

City Attorney O'Keefe reads Bill No. 6396, an ordinance approving the execution of documents related to leases for solar arrays at the School District of Clayton Administration Building and the Center of Clayton for the first time by title only.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6396, an ordinance to authorize execution of documents related to leases for solar panels at the Clayton School District Administration Building and the Center of Clayton to be read for the second time by title only. Alderman Garnholz seconded.

City Attorney O'Keefe pointed out a typo in the ordinance.

City Attorney O'Keefe reads Bill No. 6396 for the second time; Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Sanger – Aye. The Bill was adopted and became Ordinance No. 6272 of the City of Clayton.

ORDINANCE APPROVING A CONTRACT WITH WESTERN WATERPROOFING COMPANY FOR THE 10 S BRENTWOOD GARAGE MAINTENANCE PROJECT

City Manager Owens reported that bids were opened on May 24, 2013. The City received five (5) fully responsive bids with Western Waterproofing Company submitting the lowest responsive bid in the amount of \$588,875.00 which includes all alternate bids.

The scope of work to be performed on the parking structure located on the east side of the Police Station and Municipal Building at 10 S Brentwood includes: repairs to the concrete structures and masonry walls, and waterproofing the concrete decks.

The Capital Improvement Fund has \$750,000.00 budgeted for this activity in FY 2013. The Department of Public Works is requesting approval of the contract for \$588,875.00, which represents the base bid and all three alternate bids submitted by the Western Waterproofing Company. In addition to the contract amount, the City Manager requests authorization for himself or his designated representative to approve change orders in an amount not to exceed \$89,000, which is approximately 15% of the project cost. This contingency would be used to cover unknown site issues such as repairing post-tension cables and extended concrete repairs that become apparent during the project. Competitively bid, unit prices from Western Waterproofing along with measured additional square footages beyond the project scope will be used to determine cost of change orders to the contract price.

Recommendation is to approve this ordinance authorizing a contract with Western Waterproofing Company in the amount of \$588,875.00, plus a contingency of \$89,000.00 for the 10 S Brentwood Garage Maintenance Project.

Alderman Harris introduced Bill No. 6397, an ordinance to approve a contract for parking structure repairs at 10 S. Brentwood Boulevard to be read for the first time by title only. Alderman Garnholz seconded.

City Attorney O'Keefe reads Bill No. 6397, an ordinance approving a contract with Western Waterproofing Company for the 10 S. Brentwood Garage Maintenance Project for the first time by title only.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6397, an ordinance to approve a contract for parking structure repairs at 10 S. Brentwood Boulevard to be read for the second time by title only. Alderman Garnholz seconded.

City Attorney O'Keefe reads Bill No. 6397 for the second time; Alderman Harris – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Sanger – Aye. The Bill was adopted and became Ordinance No. 6273 of the City of Clayton.

Other

Mayor Sanger thanked the Board for the diligence of the questions regarding the ordinance for the Maryland Gateway Overlay District.

There being no further business the meeting was adjourned at 8:27 p.m.

Mayor

ATTEST:

City Clerk